

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

UNITED STATES CURRENCY
\$7,020.00,

Defendant.

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:

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Case No. 3:02cv332

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY SUSTAINING PLAINTIFF'S UNOPPOSED
MOTION TO DISMISS CLAIM OR, IN THE ALTERNATIVE, MOTION
FOR SUMMARY JUDGMENT (DOC. #16), TREATED AS A MOTION
FOR SUMMARY JUDGMENT; JUDGMENT OF FORFEITURE ENTERED
IN FAVOR OF PLAINTIFF AND AGAINST DEFENDANT; FURTHER
PROCEDURES DIRECTED OF PLAINTIFF'S COUNSEL;
TERMINATION ENTRY

The Motion of the Plaintiff, seeking an Order of the Court dismissing the claim of Jesse Costello or, in the alternative, for summary judgment (Doc. #16), is treated as a Motion for Summary Judgment, pursuant to Fed. R. Civ. P. 56, and, as such, is sustained, based upon the reasoning, citations of authority and Exhibits attached to the Plaintiff's unopposed motion.

Judgment/a Decree of Forfeiture will be entered in favor of the Plaintiff and against the Defendant \$7,020.00 in United States Currency. Should the

government feel a more detailed Decree of Forfeiture is required, same may be substituted for that filed this date, by the Clerk of Courts Office.

Although the Court could have dismissed the claim of Jesse Costello, based upon his failure to verify said claim under oath, subject to perjury, and because he failed to respond to the Plaintiff's Interrogatories, in spite of being advised that his failure to do so might well result in a dismissal of his claim, the Court has chosen to rely upon the unresponded to Requests for Admission and the other Exhibits attached to the Memorandum filed in support of the Plaintiff's Motion. Plaintiff's counsel must file an Affidavit, not later than seven (7) calendar days from date, authenticating each and every one of the exhibits attached to her Memorandum in support of her Motion, or this Court will be required to revisit its Decision, vacate the Judgment, and proceed with further steps in this litigation.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

September 26, 2005

/s/ Walter Herbert Rice

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Pamela M. Stanek, Esq.

Jesse Costello, Claimant, 3713 Tyler Court, Springfield, IL 62707

WHR/slc